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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. A1 2018 28

13 **EMMA CARTER-ALEXANDER**
14 **P.O. Box 1007**
Vallejo, CA 94590

A C C U S A T I O N

15 **Cemetery Manager License No. CEM 107**
16 **Crematory Manager License No. CRM 159**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Sandra Patterson (Complainant) brings this Accusation solely in her official capacity
21 as the Acting Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of
22 Consumer Affairs.

23 2. On or about May 27, 2004, the Bureau issued Cemetery Manager License No. CEM
24 107 to Emma Carter-Alexander (Respondent). The Cemetery Manager License was in full force
25 and effect at all times relevant to the charges brought herein and will expire on May 31, 2019,
26 unless renewed.

27 3. On or about May 27, 2004, the Bureau issued Crematory Manager License No. CRM
28 159 to Respondent. The Crematory Manager License was in full force and effect at all times

1 relevant to the charges brought herein and will expire on May 31, 2019, unless renewed.

2 JURISDICTION

3 4. This Accusation is brought before the Director of the Department of Consumer
4 Affairs (Director) for the Bureau, under the authority of the following laws. All section
5 references are to the Business and Professions Code (Code) unless otherwise indicated.

6 STATUTES AND REGULATIONS

7 5. Section 490 of the Code states:

8 (a) In addition to any other action that a board is permitted to take against a licensee, a
9 board may suspend or revoke a license on the ground that the licensee has been convicted of a
10 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
11 or profession for which the license was issued.

12 (b) Notwithstanding any other provision of law, a board may exercise any authority to
13 discipline a licensee for conviction of a crime that is independent of the authority granted under
14 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
15 of the business or profession for which the licensee's license was issued.

16 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a
17 conviction following a plea of nolo contendere. Any action that a board is permitted to take
18 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
19 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
20 made suspending the imposition of sentence, irrespective of a subsequent order under Section
21 1203.4 of the Penal Code.

22 (d) The Legislature hereby finds and declares that the application of this section has been
23 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
24 554, and that the holding in that case has placed a significant number of statutes and regulations
25 in question, resulting in potential harm to the consumers of California from licensees who have
26 been convicted of crimes. Therefore, the Legislature finds and declares that this section
27 establishes an independent basis for a board to impose discipline upon a licensee, and that the
28 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change

1 to, but rather are declaratory of, existing law.

2 6. Section 7691 of the Code states:

3 Conviction of a crime substantially related to the qualifications, functions and duties of the
4 license holder in question constitutes a ground for disciplinary action. The record of conviction,
5 or a certified copy thereof, shall be conclusive evidence of such conviction.

6 7. Section 7709 of the Code states:

7 A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to
8 be a conviction within the meaning of this article. The bureau may order the license suspended or
9 revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment
10 of conviction has been affirmed on appeal or when an order granting probation is made
11 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of
12 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter
13 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information
14 or indictment.

15 8. Section 7711.3 of the Code states:

16 The bureau may suspend or revoke the license of any cemetery licensee who, within the
17 immediately preceding three years, has done any of the following:

18 (a) Been convicted of a crime substantially related to the qualifications, functions, and
19 duties of such licensee. The record of conviction, or a certified copy thereof, shall be conclusive
20 evidence of such conviction.

21 (b) Knowingly authorized, directed, connived at, or aided in the publication, advertisement,
22 distribution, or circulation of any material false statement or representation concerning his or her
23 business or any cemetery property offered for sale.

24 (c) Willfully disregarded or violated any of the provisions of this act relating to cemetery
25 brokerage.

26 (d) Acted or conducted himself or herself in a manner which would have warranted the
27 denial of his or her application for a cemetery license, or for a renewal thereof.

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1 4. Taking such other and further action as deemed necessary and proper.

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3 DATED:

12-27-18



SANDRA PATTERSON
Acting Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant